we may, with more than mere pleasantry, call her our own daughter in law, and when John Marshall repeats through her High Court in its first important constitutional case, the rule of *McCulloch* v. *Maryland* that a state cannot trammel a federal agency (*D'Emden* v. *Pedder*, 1 C. L. R. 91) we are impressed with the perennial vigor of our great jurist's opinions and the wide reach of his persuasive authority.

New commentaries follow new constitutions, and Judge Clark's book gives the student of comparative jurisprudence a fresh and useful source of information, and the lawyer a valuable aid in the solution of constitutional problems. The writer's intimate knowledge of American institutions has equipped him for transplanting in his own country many well-chosen doctrines of American Constitutional Law. Page after page reads like an American commentary pointed here and there by the observations of a foreign yet not an alien critic.

American lawyers who are dealing with current questions of constitutional law will profit greatly by studying the chapters on the distribution of governmental powers, the judiciary, interstate commerce, police powers of the States, taxation, judicial power, the constitution and the common law, commissions of inquiry and the survey of the Constitution of the United States in the appendix.

A TREATISE ON THE LAW OF FIXTURES. By Marshall D. Ewell. Second Edition by Frank H. Childs. Chicago: Callaghan & Co. 1905. pp. cviii, 784.

Few lawyers who know anything of the law of real estate are unfamiliar with Ewell on Fixtures. Although it is nearly thirty years since the first edition of this book appeared, it has to the present time maintained its place as a standard treatise. In view of such permanent distinction, it would be gratuitous to dwell upon the merits of Dr. Ewell's work. He combined, to an unusual degree, an accurate knowledge of cases with a rational and suggestive treatment of them: to both these qualities, moreover, he added what may be termed "orientation," a clear mental arrangement of the subject of fixtures as a whole.

In the text of the second edition, now offered to the public, there is apparently no variation from that of the first. All new matter is added in brackets in the notes and consists mainly, if not entirely, in the citation or digesting of some three thousand new cases. Other than the introduction of them, no valid reason for the publication of a second edition appears. Indeed it is apparent from the preface of the editor that he regards the additional cases which he has incorporated as the justification of his labor.

With due respect for the accuracy and completeness of this new edition one still may doubt whether the labor of the editor was really worth while. He has added to the first edition some of the qualities of an encyclopedia or digest, books which we already had in plenty. No careful lawyer nowadays accepts as complete the lists of citations in any text-book. He invariably consults the special digest of his own jurisdiction and usually some general work of the same kind as well. A text-book is to be used mainly as an aid to the understanding of the theory of the law. For this purpose the second edition of Dr. Ewell's work is hardly more serviceable than the first.

These suggestions are not to be taken as a plea for text books which do not cite authorities. It is obvious that they should always contain accurate and exhaustive citations to the propositions advanced. But it may seriously be questioned whether every new text-book and every new edition of a text-book ought not to mark some distinct advance in the theory of the law. Tested by these requirements, the new edition of Ewell on Fixtures does not justify the arduous labor which the preparation of it has required.

HUGHES ON PROCEDURE—THEORY AND PRACTICE. By William T. Hughes. Two Vols. Chicago: Callaghan and Company. 1905. pp. vi, 1289.

The work comprises an introductory chapter of about fifty pages, stating what the author conceives to be the "conserving fundamental policies" of procedure; Part I, treating of "The Unity and Philosophy of Procedure;" Part II, a consideration—supposed to be of the law of procedure—by reference to forty selected legal maxims; and Part III, denominated a "text-index," consisting of maxims and of leading cases which are, or are assumed to be, explications of the maxims.

The prospectus having announced that this work was the "result of thirty years' labor, study and experiment," there was reason to expect that it would be a contribution of real value on the subject; but the expectation is not realized.

Stated broadly, it seems to be the production of a man with a pet theory which he has pushed to extremes.

We may all agree that there is an intimate, even a vital relation between the rules of law that define rights, and the rules of law by which they are enforced; but that does not lead us to the author's conclusion that "Almost every principle of law must be stated in terms of procedure." We may also believe that the essentials of a valid judgment in communities deriving their law from England are substantially the same whether that judgment is at common law, a decree in equity, or a judgment under the codes, and we may even concede that some judges, under the codes as well as under the preceding systems, have not clearly apprehended what those essentials are, but this concession does not make necessary the conclusion that the stability of our whole system of government is threatened by the decisions of these judges.

The foundation upon which Mr. Hughes builds his superstructure is the sacredness and conclusiveness of the record upon which the judgment of the court of first instance is based, which he terms "the mandatory record," as distinguished from the record on appeal which he designates as the "statutory record."

The general rule that this mandatory record is conclusive is, of course, universally recognized; but the extreme deductions which the author makes from this one rule of law can only be arrived at by ignoring other rules equally well settled, and equally founded on principles of justice. For example, he chooses as his first leading case, *Windsor* v. *McVeigh*, 93 U. S. 274, and in his text is constantly commending the decision, which has been often criticised, and from which three of the justices dissented; but condemns un-